

AMENDED IN ASSEMBLY JUNE 29, 2016

AMENDED IN ASSEMBLY JUNE 20, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1287

Introduced by Senator McGuire

(Coauthors: Assembly Members Achadjian, Levine, and Wood)

February 19, 2016

An act to amend Sections 5654, 8276.5, 8279.1, and 9002.5 of, and to amend and renumber Section 7715 of, the Fish and Game Code, and to amend Section 131052 of the Health and Safety Code, relating to fishing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1287, as amended, McGuire. Fishing.

(1) Existing law authorizes the Director of Fish and Wildlife to order the closure of any waters or otherwise restrict the taking under a commercial fishing license in state waters of species of fish if the Director of Environmental Health Hazard Assessment, in consultation with the State Public Health Officer, determines that the species or subspecies of fish is likely to pose a human health risk from high levels of toxic substances. The closure or restriction is required to be adopted by emergency regulation, as specified. Under existing law, any violation of the Fish and Game Code, or of any rule, regulation, or order made or adopted under the code, is generally a misdemeanor.

This bill would expand this authority to all fishing. *The bill would require the Director of Fish and Wildlife, after ordering the closure of any waters or restricting the taking of any species of fish, to notify the*

Fish and Game Commission and request that the commission schedule a public discussion of the closure or restriction at its next scheduled full meeting. The bill would remove the requirement that the closure or restriction be adopted by emergency regulation and would instead exempt a closure or restriction from the Administrative Procedure Act. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(2) Existing law regulates the Dungeness crab fishery and requires the Director of Fish and Wildlife to adopt a program for Dungeness crab trap limits for all California permits. The program requires participants to pay a \$5 crab trap tag fee and a \$1,000 crab trap limit fee on a biennial basis, as provided, and requires a Dungeness crab trap that is fished to contain a trap tag that is fastened to the main buoy, and an additional tag attached to the trap. Existing law makes the program inoperative on April 1, 2019.

This bill would require the department to issue a waiver from the biennial crab trap tag fee to a participant who is unable to fish due to mandatory military service, as provided. The bill would authorize a vessel to transit state waters with Dungeness crab traps that are not marked in the above-described manner if traps contain either valid Oregon or Washington tags, no crab is onboard the vessel, and the traps are not deployed in state waters.

(3) Existing law prohibits a person from using any vessel to take Dungeness crab for commercial purposes without a Dungeness crab vessel permit. Existing law prohibits a person from taking Dungeness crab for commercial purposes from a vessel in specified ocean waters for 30 days after the opening of the Dungeness crab fishing season if the opening of the season has been delayed in those waters and that person has taken, possessed, or landed Dungeness crab in other specified waters prior to that opening. Existing law requires the Fish and Game Commission to revoke the Dungeness crab vessel permit of any person who violates these provisions. Existing law makes these provisions inoperative on April 1, 2019.

This bill would limit the 30-day start prohibition to a situation in which a person uses the same vessel that was used to take Dungeness crab in specified waters before the delayed opening of the season in the areas subject to the prohibition.

(4) Existing law regulating commercial fishing traps makes it unlawful, except as specified, to willfully or recklessly disturb, move, or damage any trap that belongs to another person and that is marked

with a buoy identification number. Existing law, until April 1, 2019, authorizes the department, in consultation with the Dungeness crab task force, to develop regulations as necessary to provide for the retrieval of lost or abandoned commercial crab traps.

This bill would require the department, as part of the above-described regulations, to establish a retrieval permit program that would grant a person who obtains a retrieval permit the authority to retrieve during the closed season of the Dungeness crab commercial fishery lost or abandoned Dungeness crab traps belonging to another person and to receive compensation for that retrieval on a per trap basis. The bill would require the department to establish a fee to be charged to a Dungeness crab vessel permit holder for each trap belonging to the permit holder that is retrieved through the program. The bill would prohibit the department from renewing a Dungeness crab vessel permit until any fee imposed pursuant to the program has been paid.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) The Dungeness crab task force supports the Department of
- 4 Fish and Wildlife issuing citations for abandoning traps in the
- 5 ocean and for fishing during the closed season of the Dungeness
- 6 crab commercial fishery in addition to charging fees for the
- 7 retrieval of Dungeness crab traps pursuant to the program
- 8 established by this act.
- 9 (2) The commercial Dungeness crab fishing industry does not
- 10 tolerate strings of gear left in the ocean after the season closes.
- 11 The program established by this act will provide an incentive to
- 12 retrieve traps from the ocean.
- 13 (3) Establishing this program will help reduce the risk of whale
- 14 entanglements in commercial Dungeness crab fishing gear.

(4) The program established pursuant to this act should be efficient and cost effective, and should utilize entities in addition to the Department of Fish and Wildlife, including nongovernmental organizations, to help implement the program.

(b) This act shall be known and may be cited as the Whale Protection and Crab Gear Retrieval Act.

SEC. 2. Section 5654 of the Fish and Game Code is amended to read:

5654. (a) (1) Notwithstanding Section 5523 and except as provided in paragraph (2), the director, within 24 hours of notification of a spill or discharge, as those terms are defined in subdivision (ad) of Section 8670.3 of the Government Code, where any fishing, including all commercial, recreational, and nonlicensed subsistence fishing, may take place, or where aquaculture operations are taking place, shall close to the take of all fish and shellfish all waters in the vicinity of the spill or discharge or where the spilled or discharged material has spread, or is likely to spread. In determining where a spill or discharge is likely to spread, the director shall consult with the Administrator of the Office of Spill Prevention and Response. At the time of closure, the department shall make all reasonable efforts to notify the public of the closure, including notification to commercial and recreational fishing organizations, and posting of warnings on public piers and other locations where subsistence fishing is known to occur. The department shall coordinate, when possible, with local and regional agencies and organizations to expedite public notification.

(2) Closure pursuant to paragraph (1) is not required if, within 24 hours of notification of a spill or discharge, the Office of Environmental Health Hazard Assessment finds that a public health threat does not or is unlikely to exist.

(b) Within 48 hours of notification of a spill or discharge subject to subdivision (a), the director, in consultation with the Office of Environmental Health Hazard Assessment, shall make an assessment and determine all of the following:

(1) The danger posed to the public from fishing in the area where the spill or discharge occurred or spread, and the danger of consuming fish taken in the area where the spill or discharge occurred or spread.

(2) Whether the areas closed for the take of fish or shellfish should be expanded to prevent any potential take or consumption

1 of any fish or shellfish that may have been contaminated by the
2 spill or discharge.

3 (3) The likely period for maintaining a closure on the take of
4 fish and shellfish in order to prevent any possible contaminated
5 fish or shellfish from being taken or consumed or other threats to
6 human health.

7 (c) Within 48 hours after receiving notification of a spill or
8 discharge subject to subdivision (a), or as soon as is feasible, the
9 director, in consultation with the Office of Environmental Health
10 Hazard Assessment, shall assess and determine the potential danger
11 from consuming fish that have been contained in a recirculating
12 seawater tank onboard a vessel that may become contaminated by
13 the vessel's movement through an area where the spill or discharge
14 occurred or spread.

15 (d) If the director finds in his or her assessment pursuant to
16 subdivision (b) that there is no significant risk to the public or to
17 the fisheries, the director may immediately reopen the closed area
18 and waive the testing requirements of subdivisions (e) and (f).

19 (e) Except under the conditions specified in subdivision (d),
20 after complying with subdivisions (a) and (b), the director, in
21 consultation with the Office of Environmental Health Hazard
22 Assessment, but in no event more than seven days from the
23 notification of the spill or discharge, shall order expedited tests of
24 fish and shellfish that would have been open for take for
25 commercial, recreational, or subsistence purposes in the closed
26 area if not for the closure, to determine the levels of contamination,
27 if any, and whether the fish or shellfish is safe for human
28 consumption.

29 (f) (1) Within 24 hours of receiving a notification from the
30 Office of Environmental Health Hazard Assessment that no threat
31 to human health exists from the spill or discharge or that no
32 contaminant from the spill or discharge is present that could
33 contaminate fish or shellfish, the director shall reopen the areas
34 closed pursuant to this section. The director may maintain a closure
35 in any remaining portion of the closed area where the Office of
36 Environmental Health Hazard Assessment finds contamination
37 from the spill or discharge persists that may adversely affect human
38 health.

39 (2) The director, in consultation with the commission, may also
40 maintain a closure in any remaining portion of the closed area

1 where commercial fishing or aquaculture occurs and where the
2 department determines, pursuant to this paragraph, that
3 contamination from the spill or discharge persists that may cause
4 the waste of commercial fish or shellfish as regulated by Section
5 7701.

6 (g) To the extent feasible, the director shall consult with
7 representatives of commercial and recreational fishing associations
8 and subsistence fishing communities regarding the extent and
9 duration of a closure, testing protocols, and findings. If a spill or
10 discharge occurs within the lands governed by a Native American
11 tribe or affects waters flowing through tribal lands, or tribal
12 fisheries, the director shall consult with the affected tribal
13 governments.

14 (h) The director shall seek full reimbursement from the
15 responsible party or parties for the spill or discharge for all
16 reasonable costs incurred by the department in carrying out this
17 section, including, but not limited to, all testing.

18 SEC. 3. Section 7715 of the Fish and Game Code is amended
19 and renumbered to read:

20 5523. (a) (1) If the Director of Environmental Health Hazard
21 Assessment, in consultation with the State Public Health Officer,
22 determines, based on thorough and adequate scientific evidence,
23 that any species or subspecies of fish is likely to pose a human
24 health risk from high levels of toxic substances, the Director of
25 Fish and Wildlife may order the closure of any waters or otherwise
26 restrict the taking in state waters of that species.

27 (2) *After the Director of Fish and Wildlife orders the closure*
28 *of any waters or restricts the taking of any species of fish pursuant*
29 *to paragraph (1), he or she shall notify the commission and request*
30 *that the commission schedule a public discussion of the closure*
31 *or restriction at its next scheduled full commission meeting.*

32 (b) (1) When the Director of Environmental Health Hazard
33 Assessment, in consultation with the State Public Health Officer,
34 determines that a health risk no longer exists, the Director of
35 Environmental Health Hazard Assessment shall notify the Director
36 of Fish and Wildlife and shall request that any waters closed
37 pursuant to subdivision (a) be reopened for fishing and any
38 restrictions imposed pursuant to subdivision (a) be lifted.

39 (2) Upon receiving the notification and request pursuant to
40 paragraph (1), the Director of Fish and Wildlife shall open any

1 waters closed pursuant to subdivision (a) and lift any restrictions
2 imposed pursuant to subdivision (a) in a manner that promotes a
3 fair and orderly fishery.

4 (c) Chapter 3.5 (commencing with Section 11340) of Part 1 of
5 Division 3 of Title 2 of the Government Code does not apply to
6 actions taken pursuant to this section.

7 SEC. 4. Section 8276.5 of the Fish and Game Code is amended
8 to read:

9 8276.5. (a) In consultation with the Dungeness crab task force,
10 or its appointed representatives, the director shall adopt a program,
11 by March 31, 2013, for Dungeness crab trap limits for all California
12 permits. Unless the director finds that there is consensus in the
13 Dungeness crab industry that modifications to the following
14 requirements are more desirable, with evidence of consensus,
15 including, but not limited to, the record of the Dungeness crab task
16 force, the program shall include all of the following requirements:

17 (1) The program shall contain seven tiers of Dungeness crab
18 trap limits based on California landings receipts under California
19 permits between November 15, 2003, and July 15, 2008, as follows:

20 (A) The 55 California permits with the highest California
21 landings shall receive a maximum allocation of 500 trap tags.

22 (B) The 55 California permits with the next highest California
23 landings to those in subparagraph (A) shall receive a maximum
24 allocation of 450 trap tags.

25 (C) The 55 California permits with the next highest California
26 landings to those in subparagraph (B) shall receive a maximum
27 allocation of 400 trap tags.

28 (D) The 55 California permits with the next highest California
29 landings to those in subparagraph (C) shall receive a maximum
30 allocation of 350 trap tags.

31 (E) The 55 California permits with the next highest California
32 landings to those in subparagraph (D) shall receive a maximum
33 allocation of 300 trap tags.

34 (F) The remaining California permits with the next highest
35 California landings to those in subparagraph (E), which are not
36 described in paragraph (1) or (2) of subdivision (g) of Section
37 8276.4, shall receive a maximum allocation of 250 trap tags.

38 (G) The California permits described in paragraphs (1) and (2)
39 of subdivision (g) of Section 8276.4 shall receive a maximum

1 allocation of 175 tags. The tags in this tier shall not be transferable
2 for the first two years of the program.

3 (2) Notwithstanding paragraph (1), the director shall not remove
4 a permitholder from a tier described in paragraph (1), if, after an
5 allocation is made pursuant to paragraph (1), an appeal pursuant
6 to paragraph (8) places a permitholder in a tier different than the
7 original allocation.

8 (3) Participants in the program shall meet all of the following
9 requirements:

10 (A) Unless a participant receives a waiver pursuant to paragraph
11 (4), pay a biennial fee for each trap tag issued pursuant to this
12 section to pay the pro rata share of costs of the program, including,
13 but not limited to, informing permitholders of the program,
14 collecting fees, acquiring and sending trap tags to permitholders,
15 paying for a portion of enforcement costs, and monitoring the
16 results of the program. The fee shall not exceed five dollars (\$5)
17 per trap, per two-year period. All of the trap tags allocated to each
18 permit pursuant to subdivision (a) shall be purchased by the
19 permitholder or the permit shall be void.

20 (B) Purchase a biennial crab trap limit permit of not more than
21 one thousand dollars (\$1,000) per two-year period to pay for the
22 department's reasonable regulatory costs.

23 (C) Not lease a crab trap tag, and transfer a tag only as part of
24 a transaction to purchase a California permitted crab vessel.

25 (D) A Dungeness crab trap that is fished shall contain a trap tag
26 that is fastened to the main buoy, and an additional tag provided
27 by the permitholder attached to the trap. The department shall
28 mandate the information that is required to appear on both buoy
29 and trap tags.

30 (4) The department shall issue a participant a waiver from the
31 biennial fee for each trap tag described in subparagraph (A) of
32 paragraph (3) if the participant is unable to fish due to mandatory
33 military service and the participant submits a request for a waiver
34 to the department at the same time that the participant renews the
35 permit issued pursuant to subparagraph (B) of paragraph (3). A
36 participant who receives a waiver pursuant to this paragraph shall
37 not apply to the department to fish for Dungeness crab during the
38 first year of the waiver, but may apply to fish for Dungeness crab
39 during the second year of the waiver if the participant pays the full

1 cost of the biennial fee for each trap tag. The department shall not
2 limit the number of times a participant may request a waiver.

3 (5) Notwithstanding subparagraph (D) of paragraph (3), a vessel
4 may transit state waters with Dungeness crab traps that are not
5 tagged pursuant to subparagraph (D) of paragraph (3) if the traps
6 contain either a valid Oregon or Washington trap tag, no crab
7 species are onboard the vessel, and the traps are not deployed in
8 state waters.

9 (6) The department shall annually provide an accounting of all
10 costs associated with the crab trap limit program. The department
11 shall use excess funds collected to reduce the cost of the crab trap
12 limit permit fee or tag fee in subsequent years of the program.

13 (7) Permitholders may replace lost tags by application to the
14 department and payment of a fee not to exceed the reasonable costs
15 incurred by the department. The department may waive or reduce
16 a fee in the case of catastrophic loss of tags.

17 (8) (A) Any Dungeness crab permitholder may submit to the
18 director an appeal of a trap tag allocation received pursuant to this
19 section, by March 31, 2014, on a permit-by-permit basis for the
20 purpose of revising upward or downward any trap tag allocation.
21 Any appeal to revise upward a trap tag allocation shall be based
22 on evidence that a permit's California landings during the period
23 between November 15, 2003, and July 15, 2008, inclusive, were
24 reduced as a result of unusual circumstances and that these
25 circumstances constitute an unfair hardship, taking into account
26 the overall California landings history as indicated by landing
27 receipts associated with the permit. The director shall initiate the
28 appeal process within 12 months of receiving an appeal request.
29 The appeal shall be heard and decided by an administrative law
30 judge of the Office of Administrative Hearings, whose decision
31 shall constitute the final administrative decision. Except as
32 provided in subparagraph (B), any Dungeness crab permitholder
33 requesting an appeal to revise upward the permitholder's trap tag
34 allocation shall pay all expenses, including a nonrefundable filing
35 fee, as determined by the department, to pay for the department's
36 reasonable costs associated with the appeal process described in
37 this paragraph.

38 (B) Any Dungeness crab permitholder requesting an appeal may
39 apply to the administrative law judge for a waiver of the appeal
40 fees. In making the determination, the administrative law judge

1 may only consider medical hardship or military service occurring
2 during the tier qualifying window period of November 15, 2003,
3 through July 15, 2008.

4 (C) An appeal to revise downward a trap tag allocation shall be
5 decided by the department.

6 (b) (1) In addition to criminal penalties authorized by law, a
7 violation of the requirements of the program created pursuant to
8 this section shall be subject to the following civil penalties:

9 (A) Conviction of a first offense shall result in a fine of not less
10 than two hundred fifty dollars (\$250) and not more than one
11 thousand dollars (\$1,000) per illegal trap or fraudulent tag.

12 (B) Conviction of a second offense shall result in a fine of not
13 less than five hundred dollars (\$500) and not more than two
14 thousand five hundred dollars (\$2,500) per illegal trap or fraudulent
15 tag, and the permit may be suspended for one year.

16 (C) Conviction of a third offense shall result in a fine of not less
17 than one thousand dollars (\$1,000) and not more than five thousand
18 dollars (\$5,000) per illegal trap or fraudulent tag, and the permit
19 may be permanently revoked.

20 (2) The severity of a penalty within the ranges described in this
21 subdivision shall be based on a determination whether the violation
22 was willful or negligent and other factors.

23 (3) The portion of monetary judgments for noncompliance that
24 are paid to the department shall be deposited in the Dungeness
25 Crab Account created pursuant to subdivision (e).

26 (c) For the purposes of this section, a proposed recommendation
27 that receives an affirmative vote of at least 15 of the non-ex officio
28 members of the Dungeness crab task force may be transmitted to
29 the director or the Legislature as a recommendation, shall be
30 considered to be the consensus of the task force, and shall be
31 considered to be evidence of consensus in the Dungeness crab
32 industry. Any proposed recommendation that does not receive a
33 vote sufficient to authorize transmittal to the director or Legislature
34 as a recommendation shall be evidence of a lack of consensus by
35 the Dungeness crab task force, and shall be considered to be
36 evidence of a lack of consensus in the crab industry.

37 (d) (1) The director shall submit a proposed program pursuant
38 to this section to the Dungeness crab task force for review, and
39 shall not implement the program until the task force has had 60
40 days or more to review the proposed program and recommend any

1 proposed changes. The director may implement the program earlier
2 than 60 days after it is submitted to the Dungeness crab task force
3 for review, if recommended by the task force.

4 (2) After the program is implemented pursuant to paragraph
5 (1), the director may modify the program, if consistent with the
6 requirements of this section, after consultation with the Dungeness
7 crab task force or its representatives and after the task force has
8 had 60 days or more to review the proposed modifications and
9 recommend any proposed changes. The director may implement
10 the modifications earlier than 60 days after it is sent to the
11 Dungeness crab task force for review, if recommended by the task
12 force.

13 (e) The Dungeness Crab Account is hereby established in the
14 Fish and Game Preservation Fund and the fees collected pursuant
15 to this section shall be deposited in that account. The money in
16 the account shall be used by the department, upon appropriation
17 by the Legislature, for administering and enforcing the program.

18 (f) For purposes of meeting the necessary expenses of initial
19 organization and operation of the program until fees may be
20 collected, or other funding sources may be received, the department
21 may borrow money as needed for these expenses from the council.
22 The borrowed money shall be repaid within one year from the fees
23 collected or other funding sources received. The council shall give
24 high priority to providing funds or services to the department, in
25 addition to loans, to assist in the development of the program,
26 including, but not limited to, the costs of convening the Dungeness
27 crab task force, environmental review, and the department's costs
28 of attending meetings with task force members.

29 (g) (1) It is the intent of the Legislature that the department,
30 the council, and the Dungeness crab task force work with the
31 Pacific States Marine Fisheries Commission and the Tri-state
32 Dungeness Crab Commission to resolve any issues pertaining to
33 moving the fair start line south to the border of California and
34 Mexico.

35 (2) For the purposes of this subdivision, the resolution of issues
36 pertaining to the fair start line shall be limited to assessing the
37 positive and negative implications of including District 10 in the
38 tri-state agreement, including working with the Tri-state Dungeness
39 Crab Commission to amend Oregon and Washington laws to
40 include District 10 in the regular season fair start clause, and

1 discussion of providing different rules for District 10 with regard
2 to preseason quality testing.

3 (h) For purposes of this section, “council” means the Ocean
4 Protection Council established pursuant to Section 35600 of the
5 Public Resources Code.

6 (i) This section shall become inoperative on April 1, 2019, and,
7 as of January 1, 2020, is repealed, unless a later enacted statute,
8 that becomes operative on or before January 1, 2020, deletes or
9 extends the dates on which it becomes inoperative and is repealed.

10 SEC. 5. Section 8279.1 of the Fish and Game Code is amended
11 to read:

12 8279.1. (a) A person shall not take, possess onboard, or land
13 Dungeness crab for commercial purposes from a vessel in ocean
14 waters in District 6, 7, 8, or 9 for 30 days after the opening of the
15 Dungeness crab fishing season in California, if both of the
16 following events have occurred:

17 (1) The opening of the season has been delayed pursuant to state
18 law in California.

19 (2) The same vessel was used to take, possess onboard, or land
20 Dungeness crab for commercial purposes, from ocean waters
21 outside of District 6, 7, 8, or 9, prior to the opening of the season
22 in those districts.

23 (b) A person shall not take, possess onboard, or land Dungeness
24 crab for commercial purposes from a vessel in ocean waters south
25 of the border between Oregon and California for 30 days after the
26 opening of the Dungeness crab fishing season in California, if both
27 of the following events have occurred:

28 (1) The opening of the season has been delayed pursuant to state
29 law in California.

30 (2) The same vessel was used to take, possess onboard, or land
31 Dungeness crab for commercial purposes in Oregon or Washington
32 prior to the opening of the season in California.

33 (c) A person shall not take, possess onboard, or land Dungeness
34 crab for commercial purposes from a vessel in ocean waters north
35 of the border between Oregon and California for 30 days after the
36 opening of the Dungeness crab fishing season in Oregon or
37 Washington, if both of the following events have occurred:

38 (1) The opening of the season has been delayed in Oregon or
39 Washington.

1 (2) The same vessel was used to take, possess onboard, or land
2 Dungeness crab for commercial purposes in California prior to the
3 opening of the season in ocean waters off Oregon or Washington.

4 (d) A person shall not take, possess onboard, or land Dungeness
5 crab for commercial purposes from a vessel in ocean waters off
6 Washington, Oregon, or California for 30 days after the opening
7 of the Dungeness crab fishing season in California, Oregon, or
8 Washington, if both of the following events have occurred:

9 (1) The opening of the season has been delayed in Washington,
10 Oregon, or California.

11 (2) The same vessel was used to take, possess onboard, or land
12 Dungeness crab for commercial purposes in either of the two other
13 states prior to the delayed opening in the ocean waters off any one
14 of the three states.

15 (e) A violation of this section does not constitute a misdemeanor.
16 Pursuant to Section 7857, the commission shall revoke the
17 Dungeness crab vessel permit that was issued for use on the vessel
18 that was used in violation of this section.

19 (f) This section shall become inoperative on April 1, 2019, and,
20 as of January 1, 2020, is repealed, unless a later enacted statute,
21 that becomes operative on or before January 1, 2020, deletes or
22 extends the dates on which it becomes inoperative and is repealed.

23 SEC. 6. Section 9002.5 of the Fish and Game Code is amended
24 to read:

25 9002.5. (a) Notwithstanding Section 9002, the department, in
26 consultation with the Dungeness crab task force, shall develop
27 regulations as necessary to provide for the retrieval of lost or
28 abandoned commercial crab traps.

29 (b) (1) As part of the regulations adopted pursuant to
30 subdivision (a), the department shall establish a retrieval permit
31 program that facilitates the removal of lost or abandoned crab gear
32 in an efficient and cost-effective manner consistent with all of the
33 following:

34 (A) The department shall establish a retrieval permit that grants
35 a person who obtains a retrieval permit the authority to retrieve
36 during the closed season of the Dungeness crab commercial fishery
37 lost or abandoned Dungeness crab traps belonging to another
38 person and to receive compensation for that retrieval on a per trap
39 basis from the revenue generated by the fee established pursuant
40 to subparagraph (B).

(B) The department shall establish a fee to be charged to a Dungeness crab vessel permitholder for each trap belonging to the permitholder that is retrieved through the program. The department shall set the fee at a level sufficient to cover the reasonable regulatory costs associated with the program and to provide reasonable compensation to a retrieval permitholder on a per trap basis. The reasonable regulatory costs associated with the program include, but are not limited to, administrative costs, storage costs, and costs associated with disposing unusable traps or traps whose owner cannot be identified.

(C) The department may use entities in addition to the department, including, but not limited to, nongovernmental organizations, to help implement the program.

(D) A Dungeness crab trap shall not be returned to the owner of the trap until the owner has paid the fee established pursuant to subparagraph (B).

(E) The department shall not renew a Dungeness crab vessel permit until any fee imposed pursuant to subparagraph (B) has been paid.

(2) The department may adopt additional requirements necessary to implement the program described in this subdivision.

(3) The department shall submit the proposed program developed pursuant to this subdivision to the Dungeness crab task force for review, and shall not implement the program until the task force has had 60 days or more to review the proposed program and recommend any proposed changes. The director may implement the program earlier than 60 days after it is submitted to the Dungeness crab task force for review, if recommended by the task force.

(c) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 131052 of the Health and Safety Code is amended to read:

131052. In implementing the transfer of jurisdiction pursuant to this article, the State Department of Public Health succeeds to and is vested with all the statutory duties, powers, purposes, responsibilities, and jurisdiction of the former State Department

1 of Health Services as they relate to public health as provided for
2 or referred to in all of the following provisions of law:

3 (1) Sections 550, 555, 650, 680, 1241, 1658, 2221.1, 2248.5,
4 2249, 2259, 2259.5, 2541.3, 2585, 2728, 3527, 4017, 4027, 4037,
5 4191, 19059.5, 19120, 22950, 22973.2, and 22974.8 of the
6 Business and Professions Code.

7 (2) Sections 56.17, 1812.508, and 1812.543 of the Civil Code.

8 (3) Sections 8286, 8803, 17613, 32064, 32065, 32066, 32241,
9 49030, 49405, 49414, 49423.5, 49452.6, 49460, 49464, 49565,
10 49565.8, 49531.1, 56836.165, and 76403 of the Education Code.

11 (4) Sections 405, 6021, 6026, 18963, 30852, 41302, and 78486
12 of the Food and Agricultural Code.

13 (5) Sections 307, 355, 422, 7572, 7574, 8706, 8817, and 8909
14 of the Family Code.

15 (6) Sections 217.6, 1507, 1786, 4011, 5523, 5671, 5674, 5700,
16 5701, 5701.5, and 15700 of the Fish and Game Code.

17 (7) Sections 855, 51010, and 551017.1 of the Government Code.
18 For purposes of subdivision (s) of Section 6254 of the Government
19 Code, the term “State Department of Health Services” is hereby
20 deemed to refer to the State Department of Public Health.

21 (8) (A) Sections 475, 1180.6, 1418.1, 1422.1, 1428.2, 1457,
22 1505, 1507.1, 1507.5, 1570.7, 1599.2, 1599.60, 1599.75, 1599.87,
23 2002, 2804, 11362.7, 11776, 11839.21, 11839.23, 11839.24,
24 11839.25, 11839.26, 11839.27, 11839.28, 11839.29, 11839.30,
25 11839.31, 11839.32, 11839.33, 11839.34, 17920.10, 17961,
26 18897.2, 24185, 24186, 24187, 24275, 26101, 26122, 26134,
27 26155, 26200, and 26203.

28 (B) Chapters 1, 2, 2.05, 2.3, 2.35, 2.4, 3.3, 3.9, 3.93, 3.95, 4,
29 4.1, 4.5, 5, 6, 6.5, 8, 8.3, 8.5, 8.6, 9, and 11 of Division 2.

30 (C) Articles 2 and 4 of Chapter 2, Chapter 3, and Chapter 4 of
31 Part 1, Part 2 and Part 3 of Division 101.

32 (D) Division 102, including Sections 102230 and 102231.

33 (E) Division 103, including Sections 104145, 104181, 104182,
34 104182.5, 104187, 104191, 104192, 104193, 104316, 104317,
35 104318, 104319, 104320, 104321, 104324.2, 104324.25, 104350,
36 105191, 105251, 105255, 105280, 105340, and 105430.

37 (F) Division 104, including Sections 106615, 106675, 106770,
38 108115, 108855, 109282, 109910, 109915, 112155, 112500,
39 112650, 113355, 114460, 114475, 114650, 114710, 114850,
40 114855, 114985, 115061, 115261, 115340, 115736, 115880,

1 115885, 115915, 116064, 116183, 116270, 116365.5, 116366,
2 116375, 116610, 116751, 116760.20, 116825, 117100, 117924,
3 and 119300.

4 (G) Division 105, including Sections 120262, 120381, 120395,
5 120440, 120480, 120956, 120966, 121155, 121285, 121340,
6 121349.1, 121480, 122410, and 122420.

7 (H) Part 1, Part 2 excluding Articles 5, 5.5, 6, and 6.5 of Chapter
8 3, Part 3 and Part 5 excluding Articles 1 and 2 of Chapter 2, Part
9 7, and Part 8 of Division 106.

10 (9) Sections 799.03, 10123.35, 10123.5, 10123.55, 10123.10,
11 10123.184, and 11520 of the Insurance Code.

12 (10) Sections 50.8, 142.3, 144.5, 144.7, 147.2, 4600.6, 6307.1,
13 6359, 6712, 9009, and 9022 of the Labor Code.

14 (11) Sections 4018.1, 5008.1, 7501, 7502, 7510, 7511, 7515,
15 7518, 7530, 7550, 7553, 7575, 7576, 11010, 11174.34, and 13990
16 of the Penal Code.

17 (12) Section 4806 of the Probate Code.

18 (13) Sections 15027, 25912, 28004, 30950, 41781.1, 42830,
19 43210, 43308, 44103, and 71081 of the Public Resources Code.

20 (14) Section 10405 of the Public Contract Code.

21 (15) Sections 883, 1507, and 7718 of the Public Utilities Code.

22 (16) Sections 18833, 18838, 18845.2, 18846.2, 18847.2, 18863,
23 30461.6, 43010.1, and 43011.1 of the Revenue and Taxation Code.

24 (17) Section 11020 of the Unemployment Insurance Code.

25 (18) Sections 22511.55, 23158, 27366, and 33000 of the Vehicle
26 Code.

27 (19) Sections 5326.9, 5328, 5328.15, 14132, 16902, and 16909,
28 and Division 24 of the Welfare and Institutions Code. Payment
29 for services provided under the Family Planning, Access, Care,
30 and Treatment (Family PACT) Waiver Program pursuant to
31 subdivision (aa) of Section 14132 and Division 24 shall be made
32 through the State Department of Health Care Services. The State
33 Department of Public Health and the State Department of Health
34 Care Services may enter into an interagency agreement for the
35 administration of those payments. This paragraph, to the extent
36 that it applies to the Family PACT Waiver Program, shall become
37 inoperative on June 30, 2012.

38 (20) Sections 13176, 13177.5, 13178, 13193, 13390, 13392,
39 13392.5, 13393.5, 13395.5, 13396.7, 13521, 13522, 13523, 13528,
40 13529, 13529.2, 13550, 13552.4, 13552.8, 13553, 13553.1, 13554,

1 13554.2, 13816, 13819, 13820, 13823, 13824, 13825, 13827,
2 13830, 13834, 13835, 13836, 13837, 13858, 13861, 13862, 13864,
3 13868, 13868.1, 13868.3, 13868.5, 13882, 13885, 13886, 13887,
4 13891, 13892, 13895.1, 13895.6, 13895.9, 13896, 13896.3,
5 13896.4, 13896.5, 13897, 13897.4, 13897.5, 13897.6, 13898,
6 14011, 14012, 14015, 14016, 14017, 14019, 14022, 14025, 14026,
7 14027, and 14029 of the Water Code.

8 SEC. 8. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.